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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,569	06/25/2003	Scott Schellinger	021592-000110US	8056
20350 7590 10/31/2007 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER CHANDLER, SARA M	
			ART UNIT 3693	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/603,569	SCHELLINGER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sara Chandler	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Interpretation*

1. In determining patentability of an invention over the prior art, all claim limitations have been considered and interpreted as broadly as their terms reasonably allow. See MPEP § 2111.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Pruter*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). See MPEP § 2111.

2. All claim limitations have been considered. Additionally, all words in the claims have been considered in judging the patentability of the claims against the prior art. See MPEP 2106 II C. The following language is interpreted as not further limiting the scope of the claimed invention. See MPEP 2106 II C.

Language in a method claim that states only the intended use or intended result (e.g., "for \_\_\_\_\_"), but the expression does not result in a manipulative difference in the steps of the claim. Language in a system claim that states only the intended use or intended result (e.g., "for \_\_\_\_\_"), but does not result in a structural difference between the claimed invention and the prior art. In other words, if the prior art structure is capable of performing the intended use, then it meets the claim.

Claim limitations that contain statement(s) such as "*if, may, might, can could*", as optional language. As matter of linguistic precision, optional claim elements do not narrow claim limitations, since they can always be omitted.

Claim limitations that contain statement(s) such as "*wherein, whereby*", that fail to further define the steps or acts to be performed in method claims or the discrete physical structure required of system claims.

USPTO personnel should begin claim analysis by identifying and evaluating each claim limitation. For processes, the claim limitations will define steps or acts to be performed. For products, the claim limitations will define discrete physical structures or materials. Product claims are claims that are directed to either machines, manufactures or compositions of matter. See MPEP § 2106 II C.

The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

See MPEP § 2106 II C.

3. Independent claims are examined together, since they are not patentable distinct. If applicant expressly states on the record that two or more independent and distinct inventions are claimed in a single application, the Examiner may require the applicant to elect an invention to which the claims will be restricted.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-41** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 17 recite the limitation "information". What kind of information (e.g., Demographic information ? Credit information? Home preferences information? )? The information is interpreted as relating to anything.

Claims 1 and 17 recite the limitation "contract" What kind of contract (e.g., Purchase Contract? Agent representation? Loan? ). The contract is interpreted as relating to anything.

A contract requires more than one party. Who are the parties entering into this contract?

How is the contract created? How do the milestones relate to the contract (e.g., Does the buyer specify deadlines? Are the milestones policies set by the real estate agents? Are the milestones policies set by the real estate agents or their representatives?

Claims 1 and 17 recite the limitation "buyer." What kind of buyer (e.g., Is this a homebuyer? Is this anyone on the purchasing side of real estate products and services). The buyers are interpreted as anyone.

Claims 1 and 17 recite the limitation, "control logic configured to monitor the one or more milestones associated with the contract to ensure their completion during the real estate purchase transaction." How do you achieve a result or in other words, what happens after the monitoring? If milestones is achieved, what next? If milestone is not achieved, what next? Monitoring is like checking, it is not the same as completing the one or more milestones.

How do the milestones correlate to the real estate purchase transaction? The relationship is not clearly articulated in the claims.

Claims 1 and 17 recite the limitation, "A system for managing a real estate purchase transaction." The stated use of the system is not tied to the limitations claimed.

Claims 1 and 17 recite the limitation, "to ensure their completion during the real estate purchase transaction." This is a intended result. The claimed invention cannot guarantee that this will happen.

Claims 1 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements and omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. See discussion supra, the omitted elements relate to describing the attributes of the claimed transaction and the omitted structural cooperative relationships relates to describing with specificity the relationship between features such as the received information, the contract, the milestones and the purchase transaction.

Claims 4 and 20 recite the limitation, "options information." What is options information (e.g., Loan options (such as fixed-rate versus adjustable-rate)? Floor plan options (such as 3 bathrooms versus 2 bathrooms)?)

Claims 5 and 21 recite the limitation "information on contingent property." What is information on contingent property (e.g., The property that is the subject of the purchase transaction is contingent on loan approval? The contingent property is a property other than the property that is the subject of the purchase transaction, such as what might occur when a buyer's purchase is contingent on the sale of a pre-existing home?)

Claim 6 and 22 recite the limitation, "a seller to make a counter offer." This presumes that the buyer is making the offer. The seller or the buyer can make an initial offer and there is no preceding limitation indicating that the initial offer was made by the buyer.

Claims 7 and 23 recite the limitation, "corresponding parties." Who are these parties? Are these the parties that have entered into the contract? Are these third parties? If these parties have not entered into the contract, how are they held responsible or obligated to complete the milestones?

Claims 8 and 24 recite the limitation, "a prospect." Who is the prospect? Is this different than the buyer? If so, how? If they are not different, consistent terminology should be used.

Claim 9 and 25 recite the limitation, "following up." What does this mean? What actions does it entail? What does the follow up pertain to?

Claim 10 and 26 recite the limitation, "corresponding parties." Who are these parties? Is this the buyer, seller, vendor, prospect etc.? What is the relationship to earlier limitations?

Claim 11 and 27 recite the limitation, "a warranty issue." There has been no prior referral to a warranty. In order to have a warranty issue arise there needs to be some requirement for warranty as one of the requirements for the contract between the parties..

Claims 12 and 28 recite the limitation, "a vendor." Who is the vendor? Is the vendor a party to the contract referred to earlier. How are the vendors brought into the process? How are they responsible for anything if they are not a part of the contract?

Claim 33 recites the limitation, "developments." What is this (e.g., Is this an urban/planned community development plan? Are these updates and changes related to the parties, contract?)

Claims 34 and 35 recite the limitation, "list of options" and "list of option types respectively." What is this (e.g., Loan options (such as fixed-rate versus adjustable-rate)? Floor plan options (such as 3 bathrooms versus 2 bathrooms)?

Claims 36,37,38,39 and 40 recite the limitation, "agent." What is this (e.g., Is this an agent such as a real estate agent or representative? Is this an agent as used in computer technology?

Dependent claims are further rejected based on the same rationale as the claims from which they depend.

***Claim Rejections - 35 USC § 102***



The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-10, 16-26 and 32-41** are rejected under 35 U.S.C. 102(e) as being anticipated by Donahue, US Pub. No. 2002/0095311.

**Re Claims 1-5,9, and 16:** Donahue discloses a system for managing a real estate purchase transaction, comprising:

control logic configured to receive information from a buyer (Donahue, abstract, [0003] [0011] thru [0017] [0063] [0065] [0090] [0091] [0099] [0112] [0117] [0118] [0123] [0136] [0148] [0157]);

control logic configured to create a contract using the received information (Donahue, abstract, [0003] [0012] [0015] [0017] [0018] [0065] [0066] [0114] [0140] [0141] [0149] thru [0159] [0170] thru [0172] [0213] [0214] [0219]);

control logic configured to generate one or more milestones associated with the contract (Donahue, abstract, [0013] [0064] [0068] [0072] [0075] thru [0084] [0086] [0089] thru [0092] [0115] [0140] [0187]); and

control logic configured to monitor the one or more milestones associated with the contract to ensure their completion during the real estate purchase transaction

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(Donahue, abstract, [0013] [0064] [0068] [0072] [0075] thru [0084] [0086] [0089] thru [0092] [0115] [0140] [0187]).

**Re Claim 6:** Donahue discloses the claimed invention supra and further discloses:

control logic configured to allow a seller to make a counter offer to the contract (Donahue, abstract, [0013] [0014] [0017] [0018] [0036] thru [0038] [0065] thru [0067] [0075] thru [0084] [0094] thru [0100] [0104] [0106] thru [0115] [0119] [0121] [0122] [0124] thru [0142] [0148] [0157] [0159] thru [0167] [0173] [0174] [0188] [0200] [0201] [0210] thru [0218]).

**Re Claim 7:** Donahue discloses the claimed invention supra and further discloses wherein the control logic configured to monitor the one or more milestones associated with the contract further includes:

control logic configured to inform corresponding parties responsible for completion of the one or more milestones associated with the contract (Donahue, abstract, [0015] [0018] [0063] [0067] [0079] [0081] [0130] [0131] [0133] [0134] [0151] [0168] thru [0175] [0178] [0180] thru [0182] [0205] [0211] [0213] = parties; [0008] [0064] [0079] [0080] [0084] [0089] [0090] [0112] [0115] [0207] [0208] = monitoring).

**Re Claim 8:** Donahue discloses the claimed invention supra and further discloses:

control logic configured to manage information from a prospect (Donahue, abstract, [0003] [0011] thru [0017] [0063] [0065] [0090] [0091] [0099] [0112] [0117] [0118] [0123] [0136] [0148] [0157]);

control logic configured to generate one or more milestones associated with the prospect (Donahue, abstract, [0013] [0064] [0068] [0072] [0075] thru [0084] [0086] [0089] thru [0092] [0115] [0140] [0187]); and

control logic configured to monitor the one or more milestones associated with the prospect to ensure their completion (Donahue, abstract, [0013] [0064] [0068] [0072] [0075] thru [0084] [0086] [0089] thru [0092] [0115] [0140] [0187]).

**Re Claim 10:** Donahue discloses the claimed invention supra and further discloses wherein the control logic configured to monitor the one or more milestones associated with the prospect further includes:

control logic configured to inform corresponding parties responsible for completion of the one or more milestones associated with the prospect (Donahue, abstract, [0015] [0018] [0063] [0067] [0079] [0081] [0130] [0131] [0133] [0134] [0151] [0168] thru [0175] [0178] [0180] thru [0182] [0205] [0211] [0213] = parties; [0008] [0064] [0079] [0080] [0084] [0089] [0090] [0112] [0115] [0207] [0208] = monitoring).

**Re Claims 17-21,25 and 32:** Claims 17-21,25 and 32 contain features or limitations similar to those recited in claims 1-5,9 and 16 and are rejected under the same rationale.

**Re Claim 22:** Claim 22 contains features or limitations similar to those recited in claim 6 and is rejected under the same rationale.

**Re Claim 23:** Claim 23 contains features or limitations similar to those recited in claim 7 and is rejected under the same rationale.

**Re Claim 24:** Claim 24 contains features or limitations similar to those recited in claim 8 and is rejected under the same rationale.

**Re Claim 26:** Claim 26 contains features or limitations similar to those recited in claim 10 and is rejected under the same rationale.

**Re Claim 33-36:** Donahue discloses the claimed invention supra and further discloses:

control logic configured to manage information relating to a plurality of developments (Donahue, abstract, [0018] [0042] thru [0046] [0064] [0106] thru [0110] [0115] [0117] [0152] [0153] [0178] thru [0182]).

**Re Claim 37-39:** Donahue discloses the claimed invention supra and further discloses wherein the plurality of contracts are respectively managed by a plurality of agents, further comprising:

control logic configured to display information relating to a first agent from the plurality of agents (Donahue, abstract, [0015] [0018] [0063] [0067] [0079] [0081] [0130] [0131] [0133] [0134] [0151] [0168] thru [0175] [0178] [0180] thru [0182] [0205] [0211] [0213]).

**Re Claim 40:** Donahue discloses the claimed invention supra and further discloses: control logic configured to assign an agent to one or more developments (Donahue, abstract, [0015] [0018] [0063] [0067] [0079] [0081] [0130] [0131] [0133] [0134] [0151] [0168] thru [0175] [0178] [0180] thru [0182] [0205] [0211] [0213]).

**Re Claim 41:** Donahue discloses the claimed invention supra and further discloses control logic configured to assign a sales manager to one or more agents

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(Donahue, abstract, [0015] [0018] [0063] [0067] [0079] [0081] [0130] [0131] [0133]  
[0134] [0151] [0168] thru [0175] [0178] [0180] thru [0182] [0205] [0211] [0213]).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 11-15 and 27-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Donahue as applied to claims 1 and 17 above, and further in view of Raveis, US Pub. No. 2002/0049624.

**Re Claim 11,13 and 14:** Donahue discloses the claimed invention supra but fails to explicitly disclose:

control logic configured to manage information relating to a warranty issue

arising out of the contract;

control logic configured to generate one or more milestones associated with

the warranty issue; and

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control logic configured to monitor the one or more milestones associated with the warranty issue to ensure their completion.

Raveis discloses:

control logic configured to manage information relating to a warranty issue arising out of the contract (Raveis, [0024] [0026] [0033] [0080] [0097] [0108] [0145] [0173]);

control logic configured to generate one or more milestones associated with the warranty issue (Raveis, [0024] [0026] [0033] [0080] [0097] [0108] [0145] [0173]); and

control logic configured to monitor the one or more milestones associated with the warranty issue to ensure their completion (Raveis, [0024] [0026] [0033] [0080] [0097] [0108] [0145] [0173]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Donahue by adopting the teachings of Raveis to provide: control logic configured to manage information relating to a warranty issue arising out of the contract; control logic configured to generate one or more milestones associated with the warranty issue; and control logic configured to monitor the one or more milestones associated with the warranty issue to ensure their completion.

As suggested by Raveis warranties provide peace of mind to buyers and reduce inspection issues.

**Re Claim 12:** Donahue in view of Raveis discloses the claimed invention supra and Donahue further discloses:

control logic configured to manage information relating to a vendor (Donahue, abstract, [0015] [0018] [0063] [0067] [0079] [0081] [0130] [0131] [0133] [0134] [0151] [0168] thru [0175] [0178] [0180] thru [0182] [0205] [0211] [0213]).

Donahue fails to explicitly disclose:  
control logic configured to make the information relating to the vendor available in order to help resolve the warranty issue.

Raveis discloses:  
control logic configured to make the information relating to the vendor available in order to help resolve the warranty issue (Raveis, [0024] [0026] [0033] [0080] [0097] [0108] [0145] [0173]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Donahue by adopting the teachings of Raveis to provide: control logic configured to make the information relating to the vendor available in order to help resolve the warranty issue.

As suggested by Raveis warranties provide peace of mind to buyers and reduce inspection issues.

**Re Claim 15:** Donahue in view of Raveis discloses the claimed invention supra and Raveis further discloses wherein the control logic configured to monitor the one or more milestones associated with the warranty issue further includes:

control logic configured to inform corresponding parties responsible for completion of the one or more milestones associated with the warranty issue (Raveis, [0024] [0026] [0033] [0080] [0097] [0108] [0145] [0173]).

**Re Claim 27,29 and 30:** Claims 27,29 and 30 contains features or limitations similar to those recited in claim 11,13 and 14 and are rejected under the same rationale.

**Re Claim 28:** Claim 28 contains features or limitations similar to those recited in claim 12 and is rejected under the same rationale.

**Re Claim 31:** Claim 31 contains features or limitations similar to those recited in claim 15 and is rejected under the same rationale.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following relate to tracking or monitoring real estate transactions.

("20010005829"|"20010047328"|"20020046159"|"20020052814"|"20020065739"|"6321202"|"6594633"|"6684196"|"7024397"|"7127406"|"7146343").PN.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Chandler whose telephone number is 571-272-1186. The examiner can normally be reached on 8-4:30.

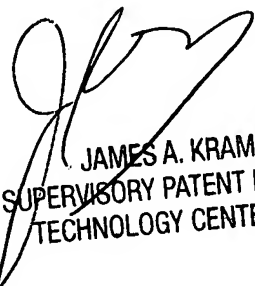
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMC

 12/30/07  
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